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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of) Examiner: Edwin C. Holloway
Asil T. Gokcebay et al.) Group Art Unit: 2835
Serial No.: 09/595,388) File No: 537P
Filed: June 14, 2000)
For: CONVENTIONAL MECHANICAL) Tiburon, California
LOCK CYLINDERS AND KEYS)
WITH ELECTRONIC ACCESS)
CONTROL FEATURE)

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313

Sir:

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ON October 20, 2004
THOMAS M. FREIBURGER No. 10,063
SIGNED [Signature]
DATE 10/20/04

RESPONSE TO EXAMINER'S INTERVIEW SUMMARY COMMENTS

A request for continued examination was filed in this application on September 30, 2004. Evidence of patentability was submitted. Following the filing of the RCE, the Examiner's Interview Summary was received by the undersigned, the interview summary being dated September 29, 2004.

The substance of the Examiner interview is essentially as stated in the Examiner's interview summary. The applicant's position was as stated in the Response to Final Action dated

September 30, 2004 that accompanied the RCE filing. In the telephone interview the applicant's attorney argued that the test of obviousness is not so easily met as would appear from the Examiner's rejections, and the Examiner may be finding obviousness too easily in this case. The applicant's proposed amendment after final, faxed to the Examiner on August 13, 2004 was also discussed in the interview.

In the Examiner's interview summary, the Examiner argues that the Bolan reference does indeed suggest accessing and unlocking a lock, in the cited passage of the reference. The subject passage does not speak of unlocking a lock, or of any credential, electronic or not, that is capable of unlocking a lock. It merely says that the DS1207 TIMEKEY from Dallas Semiconductor could be used for personnel identification badges, as well as electronically verified currency and smart cards. This is not a sufficient teaching, from a reference that was filed in 1989, that the DS1207 could be used to access a lock, particularly a mechanical lock with bittings as called for in most of the claims. The Examiner states that "this passage includes personnel identification badges that are typically used for access to secured facilities", in reference to Bolan. However, Bolan must be assessed for what it clearly teaches and the date of the reference must be kept in mind. It is submitted the

Examiner must present a reference to substantiate the fact stated
- that personnel identification badges, in 1989 at the time of
the Bolan filing, were typically used for access to secured
facilities. The implication seems otherwise since the personnel
ID badges are lumped together with smartcards and electronic
verifiable currency.

The reference must be measured by what it clearly states and
teaches, not by surmise or extrapolation.

Further, the Examiner stated (page 2) that the claims under
consideration do not require accessing and unlocking a lock. The
applicant certainly agrees that these are not method claims.
However, the claims need not recite a method for accessing and
unlocking a lock. The claims are apparatus claims most of which
recite a mechanical key device with a key blade that has
mechanical bittings that fit the bittings of a lock. Mechanical
bittings on mechanical keys are very well known and are
understood from the specification. Thus, the claims very clearly
define a key capable of accessing and unlocking a lock.

In the same vein, at page 3 the Examiner says the applicant's
argument regarding Bolan's lacking a key function to access a
lock is unpersuasive because the applicant's claims are directed

to a key, not a lock or door. But the claims do indeed specify a key having structure making it capable of accessing and unlocking a lock, as explained above. This certainly seems without question. Thus the claims do make an important distinction from Bolan in this regard.

In combination with such a key is recited a self-contained electronic ID device, of a specifically defined type, in claim 1. This electronic ID device is clearly recited as having terminals, one of which is grounded to metal of the key device, in the case of claim 1, with an isolated data contact on the key positioned to engage with a key reader contact associated with a key slot (which itself is not a claimed element). The electronic ID device is thus recited in specific structural terms as to how it is connected and how its terminals are grounded and exposed to permit reading when the key is used. These are all structural limitations of the key itself, not requiring any recitation of use of the key (and not requiring recitation of a lock as part of the combination) to define over the prior art. These structural limitations cannot be ignored in assessing the content of the claim and its differences from the prior art.

It is the applicant's position that the Bolan reference adds nothing to the acknowledged prior art regarding Dallas

Semiconductor electronic ID devices sold as sealed can units. However, even if the Examiner were to come up with a reference showing such an ID device used to access a lock or open a door, if such a reference did not show the ID device directly attached to a mechanical key, to provide the dual access control features of mechanical bitting and electronic access control, such a reference would be of very little consequence. The prior art only teaches that electronics can be onboard the key (Stinar), as well as teaching that the Dallas Semiconductor ID devices of the type recited in this application did exist. There is no teaching or motivation that would suggest the features of claim 1, specific structural features relating to the mechanical key with its mechanical bitting, and incorporating the self-contained memory cell ID device.

Stinar's statement that "other nonvolatile memory devices may be employed where economy or performance requirements dictate" does not bridge the gap of motivation relative to attaching the electronic ID sealed can unit (Dallas type, as in Bolan) to a mechanical key as in the claims. It simply fails to suggest that a sealed can unit could be attached to the key.

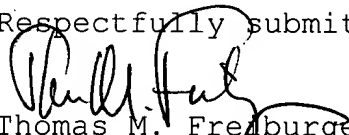
It is noted that some of the other independent claims are not as specific, as relates to certain features. Claim 25 does not

require a mechanical key with mechanical bittings. Nonetheless, that claim requires a key head with the electronic ID device, of the type described above, secured to the key head. The key device is described with structural limitations as having an isolated data contact positioned to engage with a key reading contact of a key slot. The key device is adequately described in structural terms as being capable of accessing a key slot with a reader.

For these reasons, and especially for the reasons presented with the filing of the RCE, including competent evidence of commercial success of the invention, all of the claims are believed nonobvious over the references and allowable.

The amendment proposed earlier, specifically an amendment to the preamble, is not believe necessary because of the structural limitations in the claims, especially claim 1 and similar claims reciting a mechanical key with bittings.

Respectfully submitted,



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